

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

ERIC ANTHONY MILLER,

Petitioner,

v.

THOMAS WINN,

Respondent.

Case No. 14-14551
Hon. Terrence G. Berg

ORDER DENYING PETITIONER’S MOTION TO PROCEED IN FORMA PAUPERIS ON APPEAL (Dkt. 16) AND TRANSFERRING REQUEST TO THE UNITED STATES COURT OF APPEALS FOR THE SIXTH CIRCUIT

Petitioner has filed a motion to proceed in forma pauperis on appeal from this Court’s denial of his habeas petition. The Court previously denied a certificate of appealability and leave to proceed in forma pauperis on appeal. Dkt. 13. Accordingly, the Court shall construe Petitioner’s current motion as a request for reconsideration. *See, e.g., Jackson v. Crosby*, 437 F.3d 1290, 1294 n. 5 (11th Cir. 2006); *Lyons v. Lafler*, No. 2:10-CV-11386, 2013 WL 812083, at *1 (E.D. Mich. Mar. 5, 2013). The Court finds no reason to reconsider its prior decision. A motion for reconsideration that presents issues already ruled upon by the Court, either expressly or by reasonable implication, will not be granted. *Hence v. Smith*, 49 F.

Supp. 2d 547, 550 (E.D. Mich. 1999); *Czajkowski v. Tindall & Assoc., P.C.*, 967 F. Supp. 951, 952 (E.D. Mich. 1997). Such is the case here. Petitioner fails to meet his burden of showing a palpable defect by which the Court has been misled or his burden of showing that a different disposition must result from a correction thereof as required by Local Rule 7.1(h)(3). The Court therefore denies Petitioner's motion to proceed in forma pauperis on appeal.

When a district court denies a certificate of appealability and denies leave to proceed in forma pauperis on appeal, the proper procedure is for the habeas petitioner to file a motion for a certificate of appealability and/or an application for leave to proceed in forma pauperis on appeal with the appellate court. *See Sims v. United States*, 244 F.3d 509 (6th Cir. 2011) (citing Fed. R. App. P. 22(b)(1)).¹ The Court will transfer Petitioner's motion to proceed in forma pauperis on appeal to the United States Court of Appeals for the Sixth Circuit.

SO ORDERED.

s/Terrence G. Berg
TERRENCE G. BERG
UNITED STATES DISTRICT JUDGE

Dated: August 21, 2018

¹ Petitioner filed a notice of appeal at the time he filed the instant application.

Certificate of Service

I hereby certify that this Order was electronically filed,
and the parties and/or counsel of record were served on August
21, 2018.

s/A. Chubb

Case Manager